

SUPERIOR COURT, STATE OF ARIZONA, In and for the County of Cochise

STATE OF ARIZONA,

Plaintiff,

vs.

FAUSTO NAVARRO,

Defendant.

MAY 15, 2018

Case No. CR201800212

file stamp only

2018 MAY 15 PM 4:30

PS

ORDER DENYING

HONORABLE JOHN F. KELLIHER, JR.

DIVISION TWO

By: Sandy Fleming, (05/15/18)

Judicial Administrative Assistant

The Defendant having filed his Motion for Remand; the State having filed its Response, and the Defendant having thereafter filed his Reply, and the Court having reviewed said pleadings, **IT IS THE ORDER OF THE COURT DENYING** the Motion for Remand to the Grand Jury for Re-determination of Probable Cause.

The State correctly notes that Defendant has cited no authority for his position that co-defendant cases be presented to the Grand Jury separately. The Defendant's argument is apparently new to the Arizona Criminal Justice system. The trial court appreciates the notion urged by defense counsel but also notes case law is not made at this level. Because there is no citation directly on point supporting Defendant's argument, the Motion to Remand must be denied.

Grand Jury proceedings are not trials. In that same vein, standards applicable at trial are not necessarily the same standards applicable to proceedings before a Grand Jury. Where basic procedural requirements have been met in Grand Jury proceedings, an indictment should be upheld. *O'Meara v. Gotsfield*, 174 Ariz. 576, 851 P.2d 1375 (1993).

In the instant matter, such basic procedural requirements were met.

Arguments of "rub-off" require a Defendant to present a "compelling danger of prejudice...." *State v. Van Winkle*, 186 Ariz. 336, 339, 922 P.2d 301, 304 (1996). Defendant has failed to present evidence or even credible argument of such prejudice.

mailed/distributed: 5/17/18 PS

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